

**DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**  
**POLICY AND PROCEDURES MANUAL**

**TITLE: REPETITIVE MOTION INJURIES**

**P&P C-173**

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**Approved: \_\_\_\_\_, Chief**

**Issue Date: X/X/97**

**AUTHORITY:** Title 8, California Code of Regulations (CCR), §5110.

**POLICY:** It is the policy of the Division of Occupational Safety and Health to conduct any inspection of an allegation of repetitive motion injury (RMI) to an employee in a manner consistent with 8 CCR §5110.

**PROCEDURES:**

**A. DETERMINING 8 CCR §5110 COVERAGE**

When conducting an inspection in response to a complaint regarding RMIs, compliance personnel shall first ascertain if the employer is subject to 8 CCR §5110 by documenting evidence in the inspection case file of each of the six (6) elements of the §5110 coverage formula, as follows:

**1. Number of Employer's Employees**

Is there evidence that the employer subject to the inspection has regularly employed ten (10) or more employees at any time during the last twelve (12) months?

- a. If no, then close the inspection.
- b. If yes, then proceed to determine evidence for Element 2.

**2. Number of RMIs**

Is there evidence that at least two (2) employees at the employer's workplace have been diagnosed with a RMI by a licensed physician?

**NOTE ONE:** In this standard, occurrence of exposures at one workplace would make an employer subject to the requirements of the standard at that workplace only. This is consistent with the application of any other Title 8 Standard. If the exposure occurred outside of work, at another employer's workplace, or at a geographically separate workplace of the employer, these exposures would not trigger the standard.

**NOTE TWO:** "RMI" refers to an injury, caused by a repetitive job, process or operation of identical work activity, to the human body's musculoskeletal system, which is composed of bones, cartilage, joints, muscles, tendons, ligaments, spinal discs, nerves and blood vessels.

- a. If no, then close the inspection.
- b. If yes, then proceed to determine evidence for Element 3.

3. Last Twelve (12) Months

Is there evidence that the dates on which employees reported their RMIs to the employer are within 365 days of each other?

**NOTE:** The date of any RMI (as reported by the employee to the employer) for purposes of §5110 enforcement shall be after 3 July 1997 to qualify.

- a. If no, then close the inspection.
- b. If yes, then proceed to determine evidence for Element 4.

4. Objectively Identified and Diagnosed

Is there evidence that the diagnosing physician for each RMI objectively identified and diagnosed the RMI using information that is customarily relied upon by other licensed physicians in the same field of practice, so that the information, taken as a whole, is sufficiently sound to support the RMI diagnosis?

**NOTE ONE:** The phrase "objectively identified" is to reinforce that a diagnosis of an RMI is done on measurable and observable signs and symptoms, not on just a subjective identification based on an employee's description of symptoms. Objective criteria are not limited to just clinical laboratory findings. The standard is not triggered on just the description of symptoms. The term does not limit or make reference to the actual person performing the diagnosis as being objective or an impartial third party. The medical professional can be employed by the employer or the employee.

**NOTE TWO:** When there are differing medical conclusions by licensed physicians regarding the diagnosis of RMIs, compliance personnel shall make a referral to the Medical Unit to resolve the issue.

- a. If no, then close the inspection.

- b. If yes, then proceed to determine evidence for Element 5.

5. Relationship between RMIs at the Workplace

Is there evidence that the employees incurring the RMIs were performing a job, process, or operation of identical work activity?

**NOTE:** "Identical" work activity means that the employees were performing the same repetitive motion task, such as but not limited to, word processing, assembly or loading.

- a. If no, then close the inspection.
- b. If yes, then proceed to determine evidence for Element 6.

6. Predominant Cause

Is there evidence that a licensed physician has determined that the job, process, or operation of identical work activity has been "predominant," i.e., has contributed 50% or more to the occurrence of the RMIs.

- a. If no, then close the inspection.
- b. If yes, then document in the inspection file the specifics of how the work-related factors have caused the RMIs and proceed to conduct an evaluation of the employer's RMI Program.

**B. RMI PROGRAM EVALUATION**

1. Worksite Evaluation

Is there evidence that the employer has evaluated each job, process, or operation of identical work activity (or a representative number of such jobs, processes or operations of identical work activities) for exposures which have caused RMIs?

**NOTE:** The types of "exposures" an employer may evaluate include the following: (1) frequency, i.e., the rate of repetitive motions or exertions; (2) force, i.e., physical exertion by or pressure applied to any part of the body during a repetitive motion; (3) duration, i.e., the length of any period of repetitive work activity which represent an exposure risk; (4) posture, i.e., the position of a body part during repetitive work activity; (5) localized or whole-body vibration; (6) repetitive motion of hands and feet under

conditions of extreme cold temperature; and/or (7) any other exposures which are reasonably likely to have caused RMIs.

- a. If yes, then proceed to evaluate the employer's program for exposure control (correction or minimization).
- b. If no, then cite the employer for violating §5110(b)(1) and proceed to evaluate the employer's program for exposure control. See Sections B.4. and C.

## 2. Exposure Control Measures

### a. Actual Correction of Exposures

Has the employer corrected, in a timely manner, those exposures which have caused RMIs?

- (1) If yes, then proceed to evaluate the employer's program for training.
- (2) If no, then determine whether the exposures are capable of being corrected.

### b. Potential for Exposures to be Corrected

Are the exposures that have caused RMIs capable of being corrected?

**NOTE:** The phrase "capable of being corrected" means capable of being changed through engineering or administrative controls, as defined in §5110(b)(2), so that they do not cause RMIs. See Labor Code §6401.

- (1) If yes, document all evidence supporting that conclusion, document all evidence of the employer's failure to correct the exposure in a timely manner, cite the employer for violating §5110(b)(2) and proceed to evaluate the employer's training program. See Sections B.4. and C.
- (2) If no, then determine whether the employer has minimized RMIs to the extent feasible.

### c. Minimizing Exposure

Has the employer minimized RMIs to the extent feasible?

**NOTE:** A "feasible" corrective measure is one that is reasonable and is capable of being implemented.

- (1) If yes, then proceed to evaluate the employer's program for training.
- (2) If no, then cite the employer for violating §5110(b)(2) and evaluate the employer's program for training. See Sections B.4. and C.

3. Training

Has the employer provided training to employees who work at, and who supervise employees who work at the jobs, processes or operations of identical work activity that have been identified as causing RMIs to more than one employee at the employer's workplace?

- a. If no, then cite employer for violating §5110(b)(3). See Sections B.4. and C.
- b. If yes, proceed to document whether the employer's program for training includes explanations of (1) the employer's RMI program; (2) the exposures which have been associated with RMIs; (3) the symptoms and consequences of injuries caused by repetitive motion; (4) the importance of reporting symptoms and injuries to the employer; and (5) methods used by the employer to minimize RMIs.
  - (1) If yes, then close the inspection.
  - (2) If no, then cite employer for violations of §5110(b)(3)(A), (b)(3)(B), (b)(3)(C), (b)(3)(D) and/or (b)(3)(E) as appropriate. See Sections B.4. and C.

4. Division's Burden of Proof Regarding the Adequacy of an Employer's Compliance with §5110(b)(1), (b)(2) and (b)(3)

**NOTE:** When gathering evidence related to the Division's burden of proof regarding the adequacy of an employer's compliance with §5110(b)(1)(2), (b)(2) and (b)(3), compliance personnel are encouraged to consult with the Legal Unit.

a. Existence of More Effective Measures Than Those Taken by the Employer

Is there evidence that any measure known to but not taken by the employer to comply with subsection (b)(1), (b)(2) or (b)(3) is substantially certain to cause a greater reduction in RMIs than the measure(s) chosen by the employer?

**NOTE:** For any such measure, compliance personnel shall support their determination by documenting in the inspection file: (1) the publication(s) presenting the evidence of the effectiveness of the measure (e.g., a NIOSH study or other peer-reviewed scientific study); and (2) the basis for their conclusion that the measure is substantially certain to cause a greater reduction in RMIs in the employer's workplace.

- (1) If yes, then proceed to determine whether the identified compliance measure was known to the employer.
- (2) If no, then close the inspection.

b. Known to the Employer

Was the identified compliance measure known to the employer?

**NOTE:** To determine whether the identified compliance measure was "known" to the employer, compliance personnel shall document evidence of the extent to which the employer had actual knowledge of the existence of the identified compliance measure.

- (1) If yes, then proceed to determine whether the identified compliance measure would impose additional unreasonable costs.
- (2) If no, close the inspection.

c. Additional Unreasonable Costs

Is there evidence that the identified compliance measure would impose additional unreasonable costs?

**NOTE:** To determine whether the identified compliance measure would impose additional unreasonable costs on the employer, compliance personnel shall document in the inspection file the following information: (1) the cost of the identified compliance measure; (2) the employer's size (number of employees); and (3) the expected results of implementing the identified compliance measure, including reduction of risk of injury and impact on the employer's business.

- (1) If yes, close the inspection.
- (2) If no, cite the employer for failure to implement the identified compliance measure. See Sections B.4. and C.

#### **C. STRUCTURE AND REVIEW OF §5110 CITATIONS**

##### **1. Maximum Number of Alleged Violations**

§5110 contains three independent requirements: worksite evaluation ((b)(1)), control measures ((b)(2)), and training ((b)(3)). Therefore, if an employer completely fails to comply with §5110, the maximum number of violations that shall be alleged is three.

##### **2. Classification**

Violations of §5110(b)(1), (b)(2) or (b)(3) shall be alleged in all cases as separate items or citations, depending on whether the violations are alleged as general (violations to be alleged as separate items in a single citation) or serious, willful, failure-to-abate, or repeat (violations to be alleged as separate citations).

**NOTE:** To determine whether a violation is general, serious, willful, failure-to-abate or repeat, see P&P C-1B, Section D.

##### **3. Training**

Since the five subsections of (b)(3) all deal with training, they are not independent requirements, and therefore, only one item or citation shall

be issued for any failure to comply with (b)(3) or its subsections. For example, if an employer has failed to comply with subsection (b)(3)(D) and (b)(3)(E), and the violation is classified as "general", the violation shall be alleged as one item listing both subsections.

4. Legal Unit Review

Until 3 July 1998, each citation alleging a violation of §5110 shall be forwarded by the District Manager, through the Regional Manager, to the Legal Unit for evidentiary review and assistance at least four weeks prior to the intended date of issuance.